

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CUTERA, INC.

Plaintiff,

v.

PALOMAR MEDICAL TECHNOLOGIES, INC. and
THE GENERAL HOSPITAL CORPORATION

Defendants.

C.A. No. 05-484-JJF

STIPULATION AND ORDER

Plaintiff Cutera, Inc. ("Cutera") and defendants Palomar Medical Technologies, Inc. and The General Hospital Corporation (collectively, "Defendants") stipulate and agree, subject to the Court's approval, as follows:

1. On April 7, 2005, Defendants filed a complaint in the United States District Court for the District of Massachusetts, (the "District of Massachusetts") captioned *Palomar Medical Technologies, Inc. and The General Hospital Corporation v. Cutera, Inc.*, C.A. No. 05-CV-4683-RWZ (the "Massachusetts Action"), which alleges that Cutera infringes and induces infringement of U.S. Patent No. 5,595,568 (the "568 patent") and U.S. Patent No. 5,735,844 (the "844 patent") by making, using, selling or offering for sale products using pulsed light technology for hair removal.

2. On July 6, 2005, Cutera filed a Motion to Dismiss Pursuant to Rule 12(b)(2) and 12(b)(3) ("the Motion") in the Massachusetts Action, claiming that the court lacks jurisdiction over Cutera and Defendants opposed the Motion.

3. On July 11, 2005, Cutera filed the instant declaratory judgment action in this Court, which seeks a ruling that its pulsed light products for hair removal do not infringe the '568 patent and the '844 patent, and that these two patents are invalid, void and unenforceable due to inequitable conduct (D. I. 1).

4. On August 22, 2005, counsel for Cutera and counsel for Defendants met and conferred pursuant to Local Rule 7.1.1, during which the parties agreed that while the Motion before the District of Massachusetts was under consideration, judicial economy was best served by seeking a stay from this Court pending that court's resolution of the Motion. The parties further agreed that such stay was without prejudice to Defendants to seek a further stay of the instant action if Cutera's Motion was denied.

5. By Order dated May 5, 2006, Cutera's Motion in the Massachusetts Action was denied.

6. On May 22, 2006, counsel for Cutera informed counsel for Defendants that Cutera intends file a Renewed Motion to Dismiss (the "Renewed Motion") in the Massachusetts Action. Counsel for Cutera and counsel for Defendants met and conferred pursuant to Local Rule 7.1, and the parties agreed that because Cutera intends to file a Renewed Motion, judicial economy is best served by seeking a further stay from this Court pending that court's resolution of Cutera's Renewed Motion. The parties further agreed that such stay would be without prejudice to Defendants to seek a further stay of the instant action if Cutera's Renewed Motion is denied.

7. In the United States District Court for the Northern District of California, the parties have also agreed to and have been ordered by the Court to continue the Case Management Conference in the related action filed in that court to September 22, 2006 at 1:30 pm.

THEREFORE, Cutera and Defendants NOW STIPULATE AND AGREE:

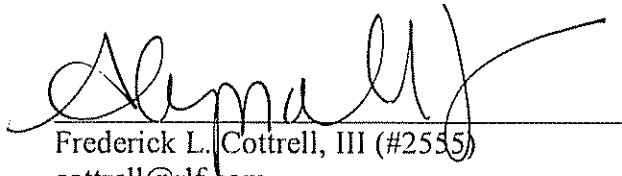
A. To stay the instant action pending the resolution of Cutera's Renewed Motion in the Massachusetts Action;

B. That such a stay is without prejudice to Defendants to seek a further stay if Cutera's Renewed Motion is denied; and

C. That Defendants shall have ten (10) days from the date of the entry of an order on Cutera's Renewed Motion, by the court for the District of Massachusetts, to answer, move or otherwise respond to the Complaint in this action.

/s/ Maryellen Noreika

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SO ORDERED this _____ day of May, 2006,

United States District Judge